



Los Angeles County
Board of Supervisors

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Fourth District

Michael D. Antonovich
Fifth District

December 22, 2009

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

John F. Schunhoff, Ph.D.
Interim Director

Robert G. Splawn, M.D.
Interim Chief Medical Officer

**DELEGATED AUTHORITY TO EXECUTE AGREEMENTS FOR
SUPPLEMENTAL MANAGED CARE PAYMENTS
(ALL SUPERVISORIAL DISTRICTS)
(3 VOTES)**

313 N. Figueroa Street, Suite 912
Los Angeles, CA 90012

Tel: (213) 240-8101
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www.dhs.lacounty.gov

*To improve health
through leadership,
service and education.*

SUBJECT

Request approval and delegation of authority to the Los Angeles County Department of Health Services (DHS) to execute agreements with the California State Department of Health Care Services (DHCS), to make intergovernmental transfers to fund supplemental Medi-Cal managed care rate increases, and to execute contract amendments with the Local Initiative Health Authority for Los Angeles County (L.A. Care) and Health Net of California, Inc. (Health Net) to receive such supplemental Medi-Cal managed care payments for the Community Health Plan (CHP) and DHS providers.



www.dhs.lacounty.gov

IT IS RECOMMENDED THAT YOUR BOARD:

Delegate authority to the Interim Director of Health Services, or his designee, to prepare and execute, on behalf of the County of Los Angeles, the following four agreements, for the federal fiscal period October 1, 2008 through September 30, 2009, subject to review and approval by County Counsel and the Chief Executive Office, and written notification to your Board when the final agreements are executed:

1. An agreement with the DHCS to authorize intergovernmental transfers (IGTs) of approximately \$31,690,000, or such greater amount as is necessary to be used in funding the Special Medi-Cal Managed Care Capitation Rate Increases (SMCRIs) for L.A. Care set forth in section 3 below.
2. An agreement with the DHCS to authorize IGTs of approximately \$15,340,000, or such greater amount as is necessary to be used in funding SMCRIs for Health Net set forth in section 4 below.
3. An amendment to the existing service agreement with L.A. Care which will authorize it to provide to CHP Local Medi-Cal Managed Care Supplemental Payments (LMSPs) of approximately \$82,492,000, or up to 103 percent of such amount if higher payments are permitted by the SMCRIs L.A. Care receives from the DHCS.
4. An amendment to the existing service agreement with Health Net which will authorize it to provide to DHS LMSPs of approximately \$39,925,000 less \$200,000 in an administrative fee, or up to 103 percent of that amount if higher payments are permitted by the State. These LMSPs are based on the SMRCs that Health Net receives from DHCS.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The recommendations will allow the Interim Director to enter into the necessary agreements with the DHCS in form similar to Exhibits I and II; enter into an amendment to the agreements with L.A. Care, similar to Exhibit III, to authorize L.A. Care to forward LMSPs of approximately \$82,492,000 to CHP; and enter into an amendment to the agreement with Health Net, similar to Exhibit IV, to authorize Health Net to forward LMSPs to DHS providers of approximately \$39,925,000 less an administrative fee of \$200,000.

In an effort to increase federal revenue for health care services, the County developed a proposal to use IGTs to draw down federal revenues to fund higher capitation payments under Medi-Cal managed care. The State and federal governments appear willing to allow Medi-Cal to pay higher capitation rates funded by County IGTs to L.A. Care and Health Net. The two health plans would then pass on those additional payments, which include both local and federal matching funds, to the County providers as LMSPs, so long as appropriate agreements are executed.

In order to effectuate the proposal, which requires Centers for Medicare and Medicaid Services (CMS) approval before it can be implemented, two types of agreements have to be signed, one with DHCS and then one with the health plans (L.A. Care and Health Net). The agreements with DHCS, arranges for the County to make IGTs to fund Medi-Cal managed care rate increases for L.A. Care and Health Net enrollees for the period October 1, 2008 through September 30, 2009 services. L.A. Care and Health Net will then provide increased payments to CHP and DHS providers. To the extent IGT funds are not used by DHCS to make supplemental payments to L.A. Care and Health Net, the money will be returned to the County.

The IGTs necessary to draw down the additional payments may have to be increased in the event that CMS does not approve the application of the enhanced matching rate established by the American Recovery and Reinvestment Act of 2009 (ARRA) to the SMCRIs. Title V of the ARRA provides an enhanced federal matching rate (from 50.0 percent to 61.5935 percent) to California for the period October 1, 2008 through December 31, 2010. The amounts listed in recommendations 1 and 2 assume that the higher matching rate will apply to the IGT funds and that a smaller transfer will lead to the same amount of federal funding. However, eligibility of such funds for the enhanced matching rate is under dispute and DHS is requesting Board approval and delegation of authority to execute, if necessary, agreements containing higher IGT amounts in order to draw down the maximum SMCRs which would increase payments of LMSPs to DHS.

The agreements with L.A. Care and Health Net are necessary to set the terms and conditions under which those entities pass on the increased payments to CHP and the DHS providers. On January 29, 2009, DHCS issued a letter which indicated that the maximum amount of funds available to DHS for the capitation rate enhancement for L.A. Care and Health Net payments were \$82,491,700 and 39,924,919, respectively. However, the final payments will depend on the actual number of capitated lives in each system. Because these amounts may be higher by the date these agreements are finalized, the Department is requesting delegated authority to receive LMSPs of up to 103 percent higher than these amounts, as permitted and recalculated by the State.

CMS must approve all Medi-Cal managed care rate increases and review all relevant documentation. Although CMS has reviewed the draft agreements attached to this letter, it has not given final approval. Accordingly, additional changes may be required by CMS. In the unlikely event that CMS requires material changes to the County's obligations, we will return to your Board for a new delegation of authority. Otherwise, we will notify the Board when the documents are finalized.

Implementation of Strategic Plan Goals

The recommended actions support Goal 4, Health and Mental Health of the County Strategic Plan, by maximizing federal revenue streams for patient care at County health facilities.

FISCAL IMPACT/FINANCING

Approval of these actions will allow DHS to make IGT payments to the DHCS for L.A. Care and Health Net of approximately \$31,690,000 and \$15,340,000, respectively for the period October 1, 2008 through September 30, 2009 and receive aggregate payments from L.A. Care and Health Net of approximately \$82,492,000 and \$39,925,000, respectively. The payments, so received, must be used by the DHS facilities to whom they are allocated to pay for health care services; no part of such payments may be distributed to the County's general fund or used by other County entities. Funding for the IGTs and the associated revenue is included in the Fiscal Year 2009-10 Final Budget.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

On August 19, 2008 and November 18, 2008, your Board authorized DHS to execute similar agreements with the DHCS to make IGTs (\$74,670,000) and with L.A. Care to receive LMSPs (\$149,340,000), respectively. These agreements related to the periods October 1, 2006 through September 30, 2007 and October 1, 2007 through September 30, 2008.

In January of this year, the State notified DHS of a decision to extend this program to the next managed care rate year, and make it available to all counties that wished to participate. Accordingly, the State has been working with counties and CMS to allow IGT funded supplements to Medi-Cal managed care capitation rates. If approved by CMS, the County will transfer funds to the DHCS pursuant to Section 14164 of the Welfare and Institutions Code to be used as the non-federal share of the Medi-Cal managed care capitation rate increases. The term of the State agreements will be for the period of October 1, 2008 through September 30, 2009, which is the most recently completed managed care rate year, and DHS will certify that the funds transferred qualify for federal financial participation.

The County does not receive managed care payments directly from the State; rather, the DHCS contracts with L.A. Care and Health Net, which then subcontracts for services with various provider networks, including CHP and DHS providers. Accordingly, these agreements will be amended to provide that the DHCS will submit supplemental capitated rate increases to L.A. Care and Health Net with the expectation that the full amount of such supplemental payments (except for Health Net's administrative fee) will be passed through to DHS. DHS is negotiating amendments to its agreements with L.A. Care and Health Net which would obligate them to provide supplemental payments to DHS for services provided during the period covered by the agreements with the DHCS. Because CMS approval of the transaction and the form of the amendment has not yet been received, these provisions cannot be included in the new L.A. Care agreement which is before your Board.

DHS understands that the DHCS will not make supplemental payments to L.A. Care and Health Net unless agreements between DHS and the two plans are in place. To allow this to happen promptly, once the necessary regulatory approvals are received, DHS is requesting Board approval and delegation of authority to execute the DHCS, L.A. Care and Health Net agreements now.

The agreements contain an indemnification clause authorizing DHS to hold L.A. Care and/or Health Net harmless for any losses they incur after the execution of these agreements and as a result of the receipt of SMCRI's or payments of LMSPs.

CONTRACTING PROCESS

Advertising on the County's Online Website is not applicable.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

There is no impact on current services as a result of this authorization. However, approval of this action will allow DHS to increase federal revenue sources and meet revenue projections included in the DHS Fiscal Outlook.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John F. Schunhoff". The signature is fluid and cursive, with the first name "John" being more prominent and the last name "Schunhoff" written in a series of connected loops.

JOHN F. SCHUNHOFF, Ph.D.
Interim Director

JFS:hr

Enclosures

c: Chief Executive Officer
Acting County Counsel
Executive Officer, Board of Supervisors
Auditor-Controller

**INTERGOVERNMENTAL AGREEMENT REGARDING
TRANSFER OF PUBLIC FUNDS**

This Agreement is entered into between the CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES (“DHCS”) and the COUNTY OF LOS ANGELES, (the “County”) with respect to the matters set forth below.

RECITALS

A. This Agreement is made pursuant to the authority of Division 9, Part 3, Chapter 7, Article 5 of the Welfare & Institutions Code, section 14164.

B. The Local Initiative Health Authority for Los Angeles County dba L.A.Care Health Plan (hereinafter "L.A. Care") is a special purpose public agency in Los Angeles County formed pursuant to Welfare and Institutions Code sections 14087.96 et seq, 14087.38 et seq. and Ordinance 94-0100 § 1 (1994) of the Los Angeles County Code. LA Care is a party to a Medi-Cal managed care contract with DHCS, entered pursuant to Welfare and Institutions Code section 14087.3, under which L.A CARE arranges and pays for the provision of covered health care services to eligible members residing in the County.

THEREFORE, the parties agree as follows:

AGREEMENT

1. Transfer of Public Funds

1.1 The County shall transfer funds to DHCS pursuant to section 14164 of the Welfare and Institutions Code, up to a maximum total amount of Thirty-One Million Six Hundred Eighty-Five Thousand Sixty-Two Dollars (\$31,685,062), to be used as the nonfederal share of Medi-Cal managed care capitation rate increases for L.A CARE for the period October 1, 2008 through September 30, 2009, as described in section 2.2 below. The funds shall be transferred in accordance with a mutually agreed upon schedule between the County and DHCS, in the amounts specified therein.

1.2 The County shall certify that the funds transferred qualify for federal financial participation pursuant to 42 C.F.R. part 433 subpart B.

2. Acceptance and Use of Transferred Funds by DHCS

2.1 DHCS shall exercise its authority under section 14164 of the Welfare and Institutions Code to accept funds transferred by the County pursuant to this Agreement as intergovernmental transfers, to use for the purpose set forth in section 2.2 below.

2.2 The funds transferred by the County pursuant to this Agreement shall be used to fund the nonfederal share of increases in Medi-Cal managed care capitation rates and shall be paid (together with the related federal financial participation) by DHCS to L.A CARE as part of L.A CARE capitation rates for the period October 1, 2008 through September 30, 2009. The rate increases paid under this section 2.2 shall be in addition to (and shall not replace or supplant) all other amounts paid or payable by DHCS or other State agencies to L.A CARE including but not limited to: (a) any periodic, special or annual rate increases payable to L.A CARE by DHCS for Medi-Cal managed care services; (b) any rate increases that may result from the implementation of changes to L.A CARE Medi-Cal service obligations; and/or (c) any and all other rate increases or amounts payable by DHCS or any other State agency to L.A CARE for any reason relating to health care or other services provided for or arranged by L.A CARE at any time.

2.3 DHCS shall seek federal financial participation for the rate increases specified in section 2.2 to the full extent permitted by federal law.

2.4 Within sixty (60) calendar days after the end of each rate year, DHCS shall advise L.A CARE and the County of (a) the amount of the Medi-Cal managed care rate increase, by aid code rate group, that DHCS paid to L.A CARE pursuant to Section 2.2 of this Agreement for the rate year;

and (b) the number of monthly enrollees, by aid code rate group, for which L.A. CARE was paid for the rate year.

2.5 Based on the data supplied in Section 2.4 above, the County shall determine the total amount necessary to fund the non-federal share of the rate increases to L.A.CARE under Section 2.2 of this Agreement and shall provide such determination and any necessary supporting work papers to the DHCS for confirmation. If the total amount transferred to DHCS under Section 1.1 for the rate year is less than the amount confirmed by DHCS under this section, the balance shall be transferred by the County to DHCS within sixty (60) days on notice of such deficiency. If the total amount transferred to DHCS under Section 1.1 for the rate year is greater than the amount confirmed by DHCS under this section, the excess shall be returned to the County by DHCS within sixty (60) days of DHCS' determination.

3. Amendments

3.1 No amendment or modification to this Agreement shall be binding on either party unless made in writing and executed by both parties and approved by the California Department of General Services, if required.

3.2 The parties shall negotiate in good faith to amend this Agreement as necessary and appropriate to implement the requirements set forth in section 2 of this Agreement.

4. Notices. Any and all notices required, permitted or desired to be given hereunder by one party to the other shall be in writing and shall be delivered to the other party personally or by United States first class, certified or registered mail with postage prepaid, addressed to the other party at the address set forth below:

To the County:

Allan Wecker, Chief Financial Officer
County of Los Angeles
313 So. Figueroa Street
Los Angeles, California 90012

With copies to:

Anita D. Lee, Esq.
Principal Deputy County Counsel
Office of the County Counsel
500 W. Temple Street, Room 648
Los Angeles, California 90012

To DHCS:

Christina Rodriguez-Moreno
California Department of Health Care Services
Medi-Cal Managed Care Division
1501 Capitol Ave., Suite 71-4002
MS 4402
P.O. Box 997413
Sacramento, CA 95899-7413

5. Other Provisions

5.1 This Agreement contains the entire Agreement between the parties with respect to the Medi-Cal rate increases for L.A CARE described in section 2.2 for the rate period October 1, 2008 through September 30, 2009, and supersedes any previous or contemporaneous oral or written proposals, statements, discussions, negotiations or other agreements between the County and the DHCS. This Agreement is not, however, intended to be the sole agreement between the parties on matters relating to the funding and administration of the Medi-Cal program. One or more other agreements already exist between the parties regarding such other matters, and other agreements may be entered into in the future. This Agreement shall not modify the terms of any other agreement between the parties.

5.2 The nonenforcement or other waiver of any provision of this Agreement shall not be construed as a continuing waiver or as a waiver of any other provision of this Agreement.

5.3 Section 2 of this Agreement shall survive the expiration or termination of this Agreement.

5.4 Nothing in this Agreement is intended to confer any rights or remedies on any third party, including, without limitation, any provider(s) or groups of providers, or any right to medical services for any individual(s) or groups of individuals; accordingly, there shall be no third party beneficiary of this Agreement.

5.5 Time is of the essence in this Agreement.

5.6 Each party hereby represents that the person(s) executing this Agreement on its behalf is duly authorized to do so.

6. State Authority. Except as expressly provided herein, nothing in this Agreement shall be construed to limit, restrict, or modify the DHCS' powers, authorities, and duties under federal and state law and regulations.

7. Approval. This Agreement is of no force and effect until signed by the parties, and approved by the California Department of General Services, if required.

8. Term. This Agreement shall be effective as of October 1, 2008, and shall expire as of June 30, 2010 unless terminated earlier by mutual agreement of the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, on the date of the last signature below.

THE COUNTY OF _____:

By: _____

Date: _____

[PRINTED NAME AND TITLE]

THE STATE OF CALIFORNIA, DEPARTMENT OF HEALTH CARE SERVICES:

By: _____

Date: _____

[PRINTED NAME AND TITLE]

**INTERGOVERNMENTAL AGREEMENT REGARDING
TRANSFER OF PUBLIC FUNDS**

This Agreement is entered into between the CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES (“DHCS”) and the COUNTY OF LOS ANGELES, (the “County”) with respect to the matters set forth below.

RECITALS

A. This Agreement is made pursuant to the authority of Division 9, Part 3, Chapter 7, Article 5 of the Welfare & Institutions Code, section 14164.

B. Health Net of California Inc.(hereinafter "Health Net") is a ----- corporation, licensed under the Knox-Keene Act Health Care Services Plan Act, Health and Safety Code 1349 et seq. Health Net is a party to a Medi-Cal managed care contract with DHCS, entered pursuant to Welfare and Institutions Code section 14087.3, under which Health Net arranges and pays for the provision of covered health care services to eligible members residing in the County.

THEREFORE, the parties agree as follows:

AGREEMENT

1. Transfer of Public Funds

1.1 The County shall transfer funds to DHCS pursuant to section 14164 of the Welfare and Institutions Code, up to a maximum total amount of Fifteen Million Three Hundred Thirty-Five Thousand One Hundred Sixty-one Dollars (\$15,335,161), to be used as the nonfederal share of Medi-Cal managed care capitation rate increases for Health Net for the period October 1, 2008 through September 30, 2009, as described in section 2.2 below. The funds shall be transferred in accordance with a mutually agreed upon schedule between the County and DHCS, in the amounts specified therein.

1.2 The County shall certify that the funds transferred qualify for federal financial participation pursuant to section 42 C.F.R. part 433 subpart B.

2. Acceptance and Use of Transferred Funds by DHCS

2.1 DHCS shall exercise its authority under section 14164 of the Welfare and Institutions Code to accept funds transferred by the County pursuant to this Agreement as intergovernmental transfers, to use for the purpose set forth in section 2.2 below.

2.2 The funds transferred by the County pursuant to this Agreement shall be used to fund the nonfederal share of increases in Medi-Cal managed care capitation rates and shall be paid (together with the related federal financial participation) by DHCS to Health Net as part of Health Net capitation rates for the period October 1, 2008 through September 30, 2009. The rate increases paid under this section 2.2 shall be in addition to (and shall not replace or supplant) all other amounts paid or payable by DHCS or other State agencies to Health Net including but not limited to: (a) any periodic, special or annual rate increases payable to Health Net by DHCS for Medi-Cal managed care services; (b) any rate increases that may result from the implementation of changes to Health Net Medi-Cal service obligations; and/or (c) any and all other rate increases or amounts payable by DHCS or any other State agency to Health Net for any reason relating to health care or other services provided for or arranged by Health Net at any time.

2.3 DHCS shall seek federal financial participation for the rate increases specified in section 2.2 to the full extent permitted by federal law.

2.4 Within sixty (60) calendar days after the end of each rate year, DHCS shall advise Health Net and the County of (a) the amount of the Medi-Cal managed care rate increase, by aid code rate group, that DHCS paid to Health Net pursuant to section 2.2 of this Agreement for the rate year; and (b) the number of monthly enrollees, by aid code rate group, for which Health Net was paid for the rate year.

2.5 Based on the data supplied in Section 2.4 above, the County shall determine the total amount necessary to fund the non-federal share of the rate increases to Health Net under section 2.2 of this Agreement and shall provide such determination and any necessary supporting work papers to the DHCS for confirmation. If the total amount transferred to DHCS under section 1.1 for the rate year is less than the amount confirmed by DHCS under this section, the balance shall be transferred by the County to DHCS within sixty (60) days on notice of such deficiency. If the total amount transferred to DHCS under Section 1.1 for the rate year is greater than the amount confirmed by DHCS under this section, the excess shall be returned to the County by DHCS within sixty (60) days of DHCS' determination.

3. Amendments

3.1 No amendment or modification to this Agreement shall be binding on either party unless made in writing and executed by both parties and approved by the California Department of General Services, if required.

3.2 The parties shall negotiate in good faith to amend this Agreement as necessary and appropriate to implement the requirements set forth in section 2 of this Agreement.

4. Notices. Any and all notices required, permitted or desired to be given hereunder by one party to the other shall be in writing and shall be delivered to the other party personally or by United States first class, certified or registered mail with postage prepaid, addressed to the other party at the address set forth below:

To the County:

Allan Wecker, Chief Financial Officer
County of Los Angeles
313 South Figueroa Street
Los Angeles, California 90012

With copies to:

Anita D. Lee, Esq.
Principal Deputy County Counsel

Office of the County Counsel
500 W. Temple Street, Room 648
Los Angeles, California 90012

To DHCS:

Christina Rodriguez-Moreno
California Department of Health Care Services
Medi-Cal Managed Care Division
1501 Capitol Ave., Suite 71-4002
MS 4402
P.O. Box 997413
Sacramento, CA 95899-7413

5. Other Provisions

5.1 This Agreement contains the entire Agreement between the parties with respect to the Medi-Cal rate increases for Health Net described in section 2.2 for the rate period October 1, 2008 through September 30, 2009, and supersedes any previous or contemporaneous oral or written proposals, statements, discussions, negotiations or other agreements between the County and the DHCS. This Agreement is not, however, intended to be the sole agreement between the parties on matters relating to the funding and administration of the Medi-Cal program. One or more other agreements already exist between the parties regarding such other matters, and other agreements may be entered into in the future. This Agreement shall not modify the terms of any other agreement between the parties.

5.2 The nonenforcement or other waiver of any provision of this Agreement shall not be construed as a continuing waiver or as a waiver of any other provision of this Agreement.

5.3 Section 2 of this Agreement shall survive the expiration or termination of this Agreement.

5.4 Nothing in this Agreement is intended to confer any rights or remedies on any third party, including, without limitation, any provider(s) or groups of providers, or any right to medical

services for any individual(s) or groups of individuals; accordingly, there shall be no third party beneficiary of this Agreement.

5.5 Time is of the essence in this Agreement.

5.6 Each party hereby represents that the person(s) executing this Agreement on its behalf is duly authorized to do so.

6. State Authority. Except as expressly provided herein, nothing in this Agreement shall be construed to limit, restrict, or modify the DHCS' powers, authorities, and duties under federal and state law and regulations.

7. Approval. This Agreement is of no force and effect until signed by the parties, and approved by the California Department of General Services, if required.

8. Term. This Agreement shall be effective as of October 1, 2008, and shall expire as of June 30, 2010 unless terminated earlier by mutual agreement of the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, on the date of the last signature below.

THE COUNTY OF _____:

By: _____

Date: _____

[PRINTED NAME AND TITLE]

THE STATE OF CALIFORNIA, DEPARTMENT OF HEALTH CARE SERVICES:

By: _____

Date: _____

[PRINTED NAME AND TITLE]

**Amendment No. 2
Services Agreement
between
Local Initiative Health Authority
for Los Angeles County
and
Community Health Plan**

This Amendment is by and between the Local Initiative Health Authority for Los Angeles County, a local government agency (“Local Initiative”) and the County of Los Angeles (“County”), on behalf of the Community Health Plan, a California health care services plan (“Plan”).

Recitals

WHEREAS, the State of California (“State”) has, through statute, regulation, and policies, adopted a plan (“State Plan”) for certain categories of Medi-Cal recipients to be enrolled in managed care plans for the provision of specified Medi-Cal benefits. Pursuant to this State Plan, the State has contracted with two health care service plans in Los Angeles County. One of these two health care service plans is a health care service plan locally created and designated by the Los Angeles County Board of Supervisors for, among other purposes, the preservation of safety net providers in the Medi-Cal managed care environment. The other health care service plan is an existing HMO which is selected by the State;

WHEREAS, Local Initiative has been designated as Los Angeles County’s locally created health care service plan by the Los Angeles County Board of Supervisors. It is a public entity, created pursuant to Welfare and Institutions Code Sections 14087.38(b) and 14087.9605 and Los Angeles County resolution and ordinance;

WHEREAS, Local Initiative is licensed by the Department of Managed Health Care as a health care service plan under the California Knox-Keene Act (Health and Safety Code Sections 1340 *et seq.*) (the “Knox-Keene Act”);

WHEREAS, Plan is duly licensed as a prepaid full service health care service plan under the Knox-Keene Act;

WHEREAS, Local Initiative and Plan have entered into a prior agreement dated January 1, 2008, as amended (“Agreement”), for Plan to provide and arrange for the provision of healthcare services for Local Initiative enrollees as part of a coordinated, culturally and linguistically sensitive health care delivery program in accordance with the requirements of the Medi-Cal Agreement and all applicable federal and state laws; and

WHEREAS, Local Initiative and Plan desire to amend the Agreement to provide for supplemental payments to Plan as a result of intergovernmental transfers from County to the California Department of Health Care Services (“State DHCS”) to maintain the availability of safety net health care services.

NOW, THEREFORE, in consideration of the foregoing and the terms and conditions set forth herein, the parties agree to amend the Agreement as follows:

Exhibit 6 (Compensation) of the Agreement shall be REVISED to add the following:

**SECOND ADDENDUM TO
EXHIBIT 6**

MANAGED CARE SUPPLEMENTAL PAYMENTS

1. Supplemental Payments to Plan

A. Payments

Should Local Initiative receive any Medi-Cal managed care capitation rate increase from State DHCS which follows from and was determined based on the amount of any intergovernmental transfers provided for in the Intergovernmental Agreement Regarding Transfer of Public Funds (“Intergovernmental Agreement”) effective for the rate period beginning October 1, 2008 (i.e., Special Medi-Cal Managed Care Rate Increase) (“SMCRI”) and applicable to Local Initiative’s fiscal year ending September 30, 2009, except as provided in Paragraph B below, Local Initiative shall pay to Plan the full amount of the SMCRI received from State DHCS, in accordance with Paragraph D below (i.e., Local Medi-Cal Managed Care Supplemental Payment) (“LMSP”). Except as may be otherwise provided by this Addendum, LMSPs paid to Plan shall not replace or supplant any other amounts paid or payable to Plan by Local Initiative.

Except as otherwise provided in this Addendum, the dispute resolution provisions in Section 10.07 of this Agreement shall apply to any disputes or disagreements between Local Initiative and Plan with respect to the SMCRI or LMSPs.

B. Quality Improvement Fees

Local Initiative shall be responsible for any quality improvement fees due pursuant to Welfare and Institutions Code Section 14464.5 relating to any SMCRI. Any capitation rate increases received by Local Initiative resulting from the application or involvement of such quality improvement fees to any SMCRI shall be excluded from any LMSP.

C. Schedule and Notice of Transfer of County Funds

(1) The Los Angeles County Department of Health Services (“County DHS”) or Plan shall provide Local Initiative with a copy of the schedule regarding the transfer of County funds to State DHCS, referred to in the Intergovernmental Agreement, within 15 days of establishing such schedule with State DHCS. Additionally, County DHS or Plan shall provide Local Initiative with a written communication no less than seven (7) calendar days prior to any changes to an existing schedule including, but not limited to, changes in the amounts specified therein.

(2) County DHS or Plan shall provide Local Initiative with written notice at least five (5) calendar days prior to transferring County funds to State DHCS for use as the nonfederal share of any SMCRI.

D. Form and Timing of Payments

Local Initiative agrees to pay LMSPs to Plan in the following form and according to the following schedule:

(1) Local Initiative agrees to pay to Plan LMSPs using the same mechanism through which compensation and Capitation Payments are normally paid to Plan (e.g., electronic transfer); and

(2) Local Initiative will pay to Plan the LMSPs no later than thirty (30) calendar days after receipt of the SMCRI from State DHCS. However, in the event that Local Initiative has not, at the time payment of LMSP would have been due, received other funds from the State which Local Initiative otherwise would have received under existing law, and its failure to receive those funds arises from the contemplation or existence of this Amendment, or the Intergovernmental Agreement, then Local Initiative may hold the LMSP until it has received the other funds or it is determined that no right to receive the funds exists.

E. Consideration

(1) As consideration for the LMSPs, Plan shall use the LMSPs for the following purposes and shall treat the LMSPs in the following manner:

(a) The LMSPs shall represent compensation for Medi-Cal services rendered to Medi-Cal Plan Members by County owned and operated health care providers during the State fiscal year to which the LMSP applies; and

(b) To the extent that total payments received by a County owned and operated health care provider in any State fiscal year under this Agreement exceed the cost of services provided to Medi-Cal Plan Members by that provider during that fiscal year, any remaining LMSP amounts shall be retained by such County owned and operated health care provider to be expended by the provider for health care services. Retained LMSP amounts may be used by such County owned and operated health care provider in either the State fiscal year received or subsequent State fiscal years.

(2) For purposes of subparagraph (1) (b) above, if the LMSPs are not used by the County owned and operated health care providers in the State fiscal year received, retention of funds by the providers will be established by demonstrating that the retained earnings account of the provider at the end of any State fiscal year in which it received payments based on LMSPs funded pursuant to the Intergovernmental Agreement has increased over the unspent portion of the prior State fiscal year's balance by the amount of LMSPs received, but not used. These retained provider funds may be commingled with other County funds for cash management purposes provided that such funds are appropriately tracked and only the depositing facility is authorized to expend them.

F. Local Initiative Oversight Responsibilities

Local Initiative's oversight responsibilities regarding Plan's use of the LMSPs shall be limited as described in this Paragraph F. Local Initiative shall request, within 30 calendar days after each State fiscal year in which LMSPs were transferred to Plan, a written confirmation from County that states whether and how County DHS and its County owned and operated health care providers complied with the provisions set forth in Paragraph E above. In each instance, County DHS shall provide Local Initiative with the written confirmation required above within 30 calendar days of Local Initiative's request.

G. Cooperation among Parties

Should disputes or disagreements arise regarding the ultimate computation or appropriateness of any aspect of the LMSPs, Plan and Local Initiative agree to work together in all respects to support and preserve the LMSPs to the full extent possible on behalf of the safety net in Los Angeles County.

H. Reconciliation

Within one hundred and twenty (120) calendar days after the end of each of Local Initiative's fiscal year in which LMSPs were paid to Plan, Local Initiative shall perform a reconciliation of the LMSPs transmitted to Plan during the preceding year to ensure that the supporting amount of SMCRIs were received by Local Initiative from State DHCS. Plan agrees to return to Local Initiative any overpayment of LMSPs paid to Plan within thirty (30) calendar days after receipt from Local Initiative of a written notice of the overpayment, unless Plan submits a written objection to Local Initiative. Any such objection shall be resolved in accordance with the dispute resolution processes set forth in Section 10.07 of this Agreement. The reconciliation processes established under this Paragraph H are distinct from the indemnification provisions set forth in Paragraph I below. Local Initiative agrees to transmit to Plan any underpayment of LMSPs within thirty (30) calendar days of Local Initiative's identification of such underpayment. Any disputes regarding the amount of such underpayment shall be resolved in accordance with the dispute resolution processes set forth in Section 10.07 of this Agreement.

I. Indemnification

(1) Anything to the contrary contained in Sections 6.05, 8.02, 10.07 and 10.14 of this Agreement notwithstanding, County shall indemnify and hold Local Initiative harmless against any losses, claims, demands, liabilities, court costs, judgments and expenses, imposed by a court or otherwise incurred by Local Initiative after the execution date of this Amendment arising from Local Initiative's receipt of SMCRI or payment of LMSPs, including but not limited to the following circumstances:

(a) In the event that State DHCS, the Department of Health and Human Services or any other federal or state agency recoups, offsets, or otherwise withholds any monies from or fails to provide any monies to Local Initiative, or Local Initiative is denied any monies to which it otherwise would have been entitled, for any reason relating to the Medi-Cal managed care capitation rate increases arising from the Intergovernmental Agreement as such increases flow through the Medi-Cal Agreement between Local Initiative and the State and this Agreement, including but not limited to (a) State DHCS' use of SMCRI or LMSPs to supplant or replace any other amounts in violation of the restrictions in Section 2.2 of the Intergovernmental Agreement; (b) the failure of the SMCRI to qualify in whole or part for federal participation pursuant to 42 C.F.R. part 433, subpart B; or (c) overpayment of SMCRI to Local Initiative by State DHCS, Local Initiative shall have a right to immediately recoup, offset or withhold any and all such amounts from payments otherwise due to Plan and/or County. Recovery by Local Initiative pursuant to this section shall include, but not be limited to, reduction in future LMSPs paid to Plan in an amount equal to the amount of SMCRI payments recovered from Local Initiative, or by reduction of any other amounts owed by Local Initiative to Plan or County, including reduction of Capitation Payments owed by Local Initiative to Plan pursuant to this Agreement or a reduction of other payments by Local Initiative to County pursuant to any other agreement then existing between the parties;

(b) Local Initiative shall pursue an appeal, a lawsuit, or any other available legal action to challenge any recoupment by State DHCS, the Department of Health and Human Services, or any other federal or state agency that is not required by law, unless after consultation with County DHS and with good cause, Local Initiative determines that it is not in the best interest of Local Initiative and/or County DHS to do so;

(c) At Local Initiative's discretion, County DHS shall either provide or arrange for legal representation on Local Initiative's behalf or Local Initiative shall arrange for its own representation and be entitled to reasonable attorney's fees and costs from County for such representation, in addition to any and all other relief to which Local Initiative may be entitled, including, but not limited to, the following circumstances:

(i) If any action at law, suit in equity, arbitration, or administrative action is brought against Local Initiative by State DHCS, the Department of Health and Human Services, any other federal or state agency or other individual or organization to: (i) enforce or interpret the SMCRI or LMSPs; or (ii) recoup, offset, or otherwise withhold any monies from Local Initiative relating to the SMCRI or LMSPs; or

(ii) If Local Initiative brings any appeal, action at law, suit in equity, arbitration or administrative action against the State DHCS, the Department of Health and Human Services or any other federal or state agency to (i) enforce or interpret the SMCRI or LMSPs; or (ii) in response to an action described in subparagraph 1 or subparagraph 3(a) above;

(d) If Local Initiative prevails in any appeal, action at law, suit in equity, arbitration, or administrative action against Plan and/or County to enforce or interpret the SMCRI or LMSPs or to recoup, offset, or otherwise withhold any monies relating to the SMCRI or LMSPs, Local Initiative shall be entitled to reasonable attorney's fees and costs from Plan and/or County; and

(2) In the event that Local Initiative believes that it is or was subject to any losses, claims, demands, liabilities, court costs, judgments or obligations to third parties which arose before the execution of this amendment as a result of the parties' process toward or intention to enter into this Amendment or the terms of this Amendment, Local Initiative shall promptly notify Plan and County DHS of such belief. The parties will then negotiate, in good faith, the extent to which County will provide indemnification. It is the parties' intention that Local Initiative not be substantially economically harmed as a result of its willingness to enter into this Amendment.

2. Term

This Addendum shall be deemed effective as of October 1, 2008 and shall apply only to Local Initiative's fiscal year ending September 30, 2009. This Addendum shall terminate on [insert date], except that Paragraphs [insert references] shall survive the termination of this Addendum and/or this Agreement.

3. Payment in Full

The LMSPs, in addition to the Capitation Payments, are payment in full (subject to applicable coordination of benefits amounts) for Plan's responsibility for all Health Care Services provided to Medi-Cal Plan Members.

Except as set forth herein, this Addendum shall not modify any terms, conditions, rights or responsibilities contained in this Agreement, all of which shall remain the same and in full force and effect; provided, however, if there is any conflict between the terms of this Addendum and other parts of this Agreement, then the terms of this Addendum shall govern.

IN WITNESS WHEREOF, the parties hereto have entered into this Amendment as of the date of the last signature below.

COUNTY OF LOS ANGELES

By: _____
Its: John F. Schunhoff, Ph.D.
Interim Director

Date: _____

**LOCAL INITIATIVE HEALTH AUTHORITY FOR LOS ANGELES COUNTY
d.b.a. L.A. CARE HEALTH PLAN (L.A. CARE)**

By: _____
Its: HOWARD A. KAHN
Chief Executive Officer

Date: _____

CAPITATION AGREEMENT FOR PROVISION OF HEALTH CARE SERVICES BY
COUNTY

AMENDMENT NO.

THIS AMENDMENT is made and entered into this ____ day of ____, 2009,

by and between COUNTY OF LOS ANGELES (hereafter "County"), and
HEALTH NET OF CALIFORNIA, INC. (hereafter "Health Net" or "Contractor"),

WHEREAS, reference is made to that certain document entitled "Capitation Agreement for Provision of Health Care Services," dated February 16, 1999, and any amendments thereto, all further identified as Agreement No.H-210040 (hereafter "Agreement") which provided for County of Los Angeles health facilities ("County Facilities") to provide services to Medi-Cal beneficiaries enrolled in duly licensed managed care plans operated by Health Net ("Health Net Medi-Cal Enrollees");

WHEREAS, the County Facilities provide a variety of essential health care services which are difficult to obtain from other providers, access to which can be critically important to the health and welfare of Health Net Medi-Cal Enrollees, including, but not limited to Level I Trauma Services, Level III neonatal nursery care, inpatient burn unit care, hyperbaric chamber services, emergency room and urgent care services.

WHEREAS, County has been experiencing economic losses in connection with making these essential services available to the public, including Health Net Medi-Cal Enrollees and requires additional revenue in order to assure their continuing availability;

WHEREAS, Supplemental payments for services rendered to enrollees by County Facilities to assure quality care and to assure that Health Net Medi-Cal Enrollees continue to have access to these services when needed is appropriate, and consistent with Health Net's existing Reward for Quality Performance program;

WHEREAS, the parties wish to modify certain terms of the Agreement and provide for additional payment to County Facilities as a result of intergovernmental transfers made by the County to the California Department of Health Care Services ("State DHCS") to assure access of Health Net Medi-Cal Enrollees to essential services and to compensate County Facilities for the services rendered;

WHEREAS, the Agreement provides at Paragraph 37 that changes may be made in the form of written amendment which is formally approved and executed by both parties.

NOW, THEREFORE, Contractor and County hereby agree as follows:

1. The following Paragraph 40 MANAGED CARE SUPPLEMENTAL PAYMENT shall be added:

40. MANAGED CARE SUPPLEMENTAL PAYMENT**A. Contractor's Obligation to Make Supplemental Payment**

In addition to all other obligations imposed on Contractor by Agreement, should Contractor receive any Medi-Cal managed care capitation rate increases from State DHCS where the nonfederal share is funded by the County of Los Angeles specifically pursuant to the provisions of the Intergovernmental Agreement Regarding Transfer of Public Funds ("Intergovernmental Agreement") effective for the period October 1, 2008 through September 30, 2009, (*i.e.*, Special Medi-Cal Managed Care Rate Increases) ("SMCRI"), Contractor shall, subject to subparagraph C below, pay to County for use by County Facilities the full amount of the SMCRI received from State DHCS, in accordance with subparagraph F below, less Two hundred thousand dollars (\$200,000) which Contractor shall retain as an administrative fee (*i.e.*, Local Medi-Cal Managed Care Supplemental Payments) ("LMSP"). LMSPs paid to County shall not replace or supplant any other amounts paid or payable to any County Facilities by Contractor.

B. County's Obligations

1. In addition to all other obligations imposed on County or County Facilities by the Agreement, County agrees that it will not exercise any discretion it has to terminate, and will maintain and make available to Health Net Medi-Cal Enrollees for the period October 1, 2008 through September 30, 2009 the following:

- Level 1 Trauma Centers at LAC+USC Medical Center and Harbor/UCLA Medical Center;
- a basic emergency room at Olive View Medical Center;
- a burn unit at LAC+USC Medical;
- a hyperbaric oxygen therapy chamber located on Catalina Island.

2. The County Facilities will apply Inpatient Clinical Pathways as structured care tools for Health Net Medi-Cal Enrollees, as appropriate, for hospital admissions for the following conditions:

Community Acquired Pneumonia
 Congestive Heart Failure
 Uncomplicated Cellulitis
 Appendectomy with Rupture
 Appendectomy without Rupture
 Laparoscopic Appendectomy without Rupture
 Laparoscopic Cholecystectomy
 Elective Colon Resection without Ostomy

C. Quality Improvement Fee

Health Net shall be responsible for any quality improvement fees due pursuant to Welfare and Institutions Code Section 14464.5 relating to any SMCRI. Any capitation rate increases received by Health Net resulting from the application or involvement of such quality improvement fees to any SMCRI shall be excluded from any LMSP.

D. Schedule and Notice of Transfer of County Funds

(1) The Los Angeles County Department of Health Services ("County DHS") shall provide Contractor with a copy of the schedule regarding the transfer of County funds to State DHCS, referred to in the Intergovernmental Agreement, within 15 days of establishing such schedule with the State DHCS. Additionally, County DHS shall notify Contractor, in writing, no less than seven (7) calendar days prior to any changes to an existing schedule including, but not limited to, changes in the amounts specified therein.

(2) County DHS shall provide Contractor with written notice of the amount and date of the transfer within (7) days after transferring County funds to State DHCS for use as the nonfederal share of any SMCRI.

E. Form and Timing of Payments

Contractor agrees to pay LMSPs to County DHS on behalf of its County Facilities in the following form and according to the following schedule:

(1) Contractor agrees to pay to County LMSPs through electronic fund transfers to the account or accounts designed by County. County may change the amount numbers or accounts to which the funds are to be transferred through advance written notice to Contractor.

(2) Contractor will pay the LMSPs to County DHS on a quarterly basis. Each quarterly payment shall be equal to the SMCRI received by Contractor from State DHCS as of thirty (30) days before the date of payment, unless the SMCRI was accounted for in a prior quarterly LMSP.

(3) County DHS will distribute the funds so received into designated accounts for each County Facility consistent with subparagraph F.

F. Use of LMSP

1. County agrees that the LMSPs shall be used for the following purposes and shall treat the LMSPs in the following manner:

(a) Recognizing that the fee for service rates provided in Exhibit "C" of the Agreement are less than billed charges approved by the County Board of Supervisors, the LMSPs shall represent supplemental compensation for Medi-Cal services rendered to Health Net Medi-Cal Enrollees by County Facilities from October 1, 2008 through September 30, 2009.

(b) To the extent that total payments received by County in any State fiscal year under Section 7 of this Agreement and this Section 40 and allocated to a particular County Facility exceed the usual charges for services provided to Health Net Medi-Cal Enrollees by such County Facility during that fiscal year, any remaining LMSP amounts shall be retained by such County Facility to be expended for health care services. County Facilities may use retained LMSP amounts in either the State fiscal year received or subsequent State fiscal years.

2. For purposes of subparagraph F(1) (b) above, if the LMSPs are not used by the County Facility to which they are allocated in the State fiscal year received, retention of funds by such County Facility will be established by demonstrating that the retained earnings account of the County Facility at the end of any State fiscal year in which it received LMSPs has increased over the unspent portion of the prior State fiscal year's balance by the amount of LMSPs received, but not used. These retained County Facility funds may be commingled with other County funds for cash management purposes provided that such funds are appropriately tracked and only the depositing facility is authorized to expend them. .

G. Contractor's Oversight Responsibilities

Contractor's oversight responsibilities regarding the use of the LMSPs by County and County Facilities shall be limited as described in this Paragraph. Contractor shall request, within 30 calendar days after each State fiscal year in which LMSPs were transferred to County, a written confirmation that states whether and how County Facility complied with the provisions set forth in Paragraph F above. In each instance, County shall provide Contractor with written confirmation of compliance within 30 calendar days of Contractor's request.

H. Cooperation Among Parties

Should disputes or disagreements arise regarding the ultimate computation or appropriateness of any aspect of the LMSPs, Contractor and County agree to work together in all respects to support and preserve the LMSPs to the fullest extent possible on behalf of the safety net in Los Angeles County.

I. Reconciliation

Within one hundred and twenty (120) calendar days after receipt of the last SMCRI, Contractor shall perform a reconciliation of the aggregate LMSPs transmitted to County under this Paragraph 40 to ensure that the supporting amount of SMCRI's were received by Contractor from State DHCS. County agrees to return to Contractor any overpayment of LMSPs made to County within thirty (30) calendar days after receipt from Contractor of a written notice of the overpayment, unless County submits a written objection to Contractor. Any such objection shall be resolved in accordance with the dispute resolution processes set forth in Paragraph 21. The reconciliation processes established under this paragraph are distinct from the indemnification provisions set forth below. Contractor agrees to transmit to the County any underpayment of LMSPs within thirty (30) calendar days of Contractor's identification of such underpayment.

J. Indemnification

1. Anything to the contrary contained in Paragraph 18 of this Agreement notwithstanding, County shall indemnify and hold Health Net harmless against any losses, claims, demands, liabilities, court costs, judgments and expenses, imposed by a court or otherwise incurred by Health Net after the execution date of this Amendment as a result of Health Net's receipt of SMCRI or payment of LMSPs, including but not limited to the following circumstances:

2. In the event that State DHCS, the Department of Health and Human Services or any other federal or state agency recoups, offsets, or otherwise withholds any monies from or fails to provide any monies to Contractor, or Contractor is denied any monies to which it otherwise would have been entitled, for any reason relating to the Medi-Cal managed care capitation rate increases arising from the Intergovernmental Agreement as such increases flow through the Medi-Cal Agreement between Health Net and the State and this Agreement, including but not limited to (a) State DHCS' use of SMCRI or LMSPs to supplant or replace other amount in violation of the restrictions in Section 2.2 of the Intergovernmental Agreement; (b) the failure of the SMCRI to qualify in whole or part for federal participation pursuant to 42 C.F.R. part 433, subpart B; or (c) overpayment of SMCRI to Contractor by State DHCS, Contractor shall have a right to immediately recoup, offset or withhold any and all such amounts from payments otherwise due to County. Recovery by Contractor pursuant to this section shall include, but not be limited to, reduction in future LMSPs paid to County in an amount equal to the amount of SMCRI payments recovered from Contractor, or by reduction of any other amounts owed by Contractor to County;

3. Contractor shall pursue an appeal, a lawsuit, or any other available legal action to challenge any recoupment by State DHCS, the Department of Health and Human Services, or any other federal or state agency, that is not required by law, unless after consultation with County and with good cause, Contractor determines that it is not in the best interest of Contractor and/or County to do so;

4. At Contractor's discretion, County shall either provide or arrange for legal representation on Contractor's behalf or Contractor shall arrange for its own representation and be entitled to reasonable attorney's fees and costs from County for such representation, in addition to any and all other relief to which Contractor may be entitled, including, but not limited to, the following circumstances:

(a) If any action at law, suit in equity, arbitration, or administrative action is brought against Contractor by State DHCS, the Department of Health and Human Services, any other federal or state agency or other individual or organization to: (i) enforce or interpret the SMCRI or LMSPs; or (ii) recoup, offset, or otherwise withhold any monies from Contractor relating to the SMCRI or LMSPs; or

(b) If Contractor brings any appeal, action at law, suit in equity, arbitration or administrative action against the State DHCS, the Department of Health and Human Services or any other federal or state agency to (i) enforce or interpret the SMCRI or LMSPs; or (ii) in response to an action described in subparagraph 1 or subparagraph 4(a) above:

5. If Contractor prevails in any appeal, action at law, suit in equity, arbitration, or administrative action against County to enforce or interpret the SMCRI's or LMSP's or to recoup, offset, or otherwise withhold any monies relating to the SMCRI's or LMSP's, Contractor shall be entitled to reasonable attorney's fees and costs from County; and

6. In the event that Contractor believes that it is subject to any losses, claims, demands, liabilities, court costs, judgments or obligations to third parties which arise before the execution of this Amendment as a direct result of the parties' intention to enter into this Amendment or the terms of this Amendment, Contractor shall promptly notify County of such belief. The parties will then negotiate, in good faith, the extent to which County will provide indemnification. It is the parties' intention that Contractor not be substantially economically harmed as a result of its willingness to enter into this Amendment.

2. This Amendment shall be effective as of the date of execution by the County, and shall terminate upon the termination of the Agreement, except that subparagraphs F, G, H, I and J of Paragraph 40 shall survive the termination of the Agreement.

3. Except as modified by this Amendment all other terms and provisions of said Agreement shall remain unchanged; provided, however, if there is any conflict between the terms of this Amendment and the Agreement, then the terms of this Amendment shall govern.

SIGNATURES

Health Plan _____ Date: _____

By: Title: Chair, _____

Hospital: _____ Date: _____

By: Title: Chief Executive Officer _____